



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,214	11/24/2008	Cliff Aaby	9501US3 (FSP0347)	6572
88095 ARRIS 3871 Lakefield Drive Suwanee, GA 30024	7550 10/18/2011		EXAMINER KAY, MARY ANNE	
			ART UNIT 2426	PAPER NUMBER
			NOTIFICATION DATE 10/18/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mirho@fspllc.com

**Office Action Summary****Application No.**

10/579,214

**Applicant(s)**

AABY ET AL.

**Examiner**

MARY A. KAY

**Art Unit**

2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 May 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1-4, 6-10 and 12-16 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-4, 6-10 and 12-16 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 12 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIBO)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s) Mail Date \_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. This Office Action is in response to an AMENDMENT entered May 13, 2010 for the patent application 10/579214 filed on May 12, 2006.
2. The Office Actions of October 6, 2009 and February 25, 2010 are fully incorporated into this Office Action by reference.

### ***Status of Claims***

3. Claims 1-4, 6-10 and 12-16 are pending in this application.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. The following is a quotation of the sixth paragraph of 35 U.S.C. 112:  

An element in a claim for a combination may be expressed as a means or step for

performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

6. Claims 1, 4, 8-10 and 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claim element "logic to" is a limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function. Applicant's specification ¶ 0020 provides for a "set top box" with logic which "refers to software (e.g. program instructions) and/or hardware (e.g. circuitry) to carry out processing in a device, such as a computing device, routing/switching device, communication device, or data processing device." However, there is no algorithm in the Applicant's specification to compose, communicate, deliver, tune, read, apply, and display.

Applicant may:

- (a) Amend the claim so that the claim limitation will no longer be interpreted as a limitation under 35 U.S.C. 112, sixth paragraph; or
- (b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that

one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant should clarify the record by either:

- (a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or
- (b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4, 6-8, 10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent 5,600,364, referred to as **Hendricks**) in

view of Amano (U.S. Patent 5,822,528, referred to as **Amano**), Paragraph 18. below applies.

**Claim 1**

**Hendricks** teaches:

A content on demand system comprising:

logic to compose information about multiple audio and/or video streams into an audio and/or video stream format (**Hendricks** Fig. 14, el. 396; Abstract, C15:22-40; Examiner's Note (EN): There are hundreds of channels of programming are managed in the system); and

logic to communicate the information about multiple audio and/or video streams to a plurality of set top boxes (**Hendricks** Fig. 4-7; Abstract, C15:22-40; EN: Multiple set top boxes are managed in the system);

**Hendricks** does not explicitly disclose:

logic to alternatively deliver the information about multiple audio and/or video streams on a first tunable channel and on a second tunable channel.

**Amano** teaches:

logic to alternatively deliver the information about multiple audio and/or video streams on a first tunable channel and on a second tunable channel (**Amano** C8:35-50; EN: Tunable primary channel and backup channels. the first channel for supplying the program data based on an ordinary program guide and use the second channel and on for supplying the data

at successive later times. Examiner interprets that the information is delivered to multiple channels. Paragraph 18. below applies).

Rationale:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of **Hendricks** in claims 1 and 8 with the stream information on two tunable channels as taught by **Amano** for the purpose of providing the advantage that missed information can be accessed in a timely manner since the same information is transmitted on all channels.

**Claim 2**

**Hendricks** teaches:

wherein the information about multiple audio and/or video streams further comprises information about content categories (**Hendricks** C8:54-C9:8; EN: Information includes the date, time slot, and program category of the various programs).

**Claim 3**

**Hendricks** teaches:

wherein the information about multiple audio and/or video streams further comprises information about audio and/or video titles (**Hendricks** Fig. 8b, el. 1052; C24:3-10; EN: Cable headend 208 may change the program selections available on any menu by modifying the program control information signal sent by the operations center 202 and transmitting the change).

**Claim 4**

**Hendricks** teaches:

logic to compose an index of audio and/or video information into the audio and/or video stream format (**Hendricks** C8:54-C9:8, C12:7-50; EN: Information includes the date, time slot, and program category of the various programs).

**Claim 6**

**Hendricks** teaches:

wherein the information about multiple audio and/or video streams further comprises: information about content categories (**Hendricks** C8:54-C9:8; EN: Although the delivery logistics are different from direct set top delivery of menu information, the information will remain the same regarding the programming).

**Claim 7**

**Hendricks** teaches:

wherein the information about multiple audio and/or video streams further comprises information about audio and/or video titles (**Hendricks** C8:54-C9:8; EN: Although the delivery logistics are different from direct set top delivery of menu information, the information will remain the same regarding the programming).

**Claim 8**

**Hendricks** does not explicitly disclose:



logic to alternatively deliver the index of audio and/or video information on a first tunable channel and on a second tunable channel.

**Amano** teaches:

logic to alternatively deliver the index of audio and/or video information on a first tunable channel and on a second tunable channel (**Amano** C8:35-50; EN: Tunable primary channel and backup channels. Paragraph 18. below applies).

**Claim 10**

**Hendricks** teaches:

logic to tune to a channel comprising an index of audio and/or video information having a format of audio and/or video streams (**Hendricks** C8:3-24, C16:10-24; EN: Subscriber tunes to a video. Examiner interprets that the channel includes menu information. Paragraph 18. below applies),  
to read the index (**Hendricks** C8:3-24, C16:10-24; EN: Subscriber tunes to a video. Examiner interprets that the channel includes menu information. Paragraph 18. below applies), and  
to apply the index to identify one or more channels comprising information describing audio and/or video content (**Hendricks** C12:7-50; EN: Menus created); and  
logic to read information from the channel comprising an index of audio and/or video information (**Hendricks** C8:3-24, C16:10-24; EN: Subscriber tunes

to a video. Examiner interprets that the channel includes menu information. Paragraph 18. below applies);

when the channel contains an indication of invalid information, to tune to an alternate channel comprising the index in the format of audio and/or video streams (**Hendricks** C8:3-24, C16:10-24; EN: Examiner interprets demographic information targeting switching as "invalid information" causing a channel change to an alternate channel. Paragraph 18. below applies).

**Hendricks** does not explicitly disclose:

to read the index from the alternate channel;

**Amano** teaches:

to read the index from the alternate channel (**Amano** C8:35-50; EN: Tunable primary channel and backup channels. Paragraph 18. below applies);

Rationale:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of **Hendricks** in claims 10, 13 and 14 with the stream information on two tunable channels as taught by **Amano** for the purpose of providing the advantage that missed information can be accessed in a timely manner.

#### **Claim 12**

**Hendricks** teaches:

logic to tune to a channel comprising information about at least one audio and/or video stream (**Hendricks** C8:3-24, C16:10-24; EN: Subscriber tunes to a video. Examiner interprets that the channel includes menu information. Paragraph 18. below applies),

the information about at least one audio and/or video stream formatted as an audio and/or video stream (**Hendricks** Fig. 14, el. 396; Abstract; EN: Program control information signal that carries data and identifies available program choices .,

read the information about the at least one audio and/or video stream (**Hendricks** C8:3-24, C16:10-24; EN: Subscriber tunes to a video. Examiner interprets that the channel includes menu information. Paragraph 18. below applies), and

display the information about the at least one audio and/or video stream (**Hendricks** C8:3-24, C16:10-24; EN: Subscriber tunes to a video. Examiner interprets that the channel includes menu information. Paragraph 18. below applies).

**Claim 13**

**Hendricks** teaches:

logic to read information from the channel and, when the channel contains an indication of invalid information (**Hendricks** C8:3-24, C16:10-24; EN: Examiner interprets demographic information targeting switching as

"invalid information" causing a channel change to an alternate channel.

Paragraph 18. below applies),

to tune to an alternate channel comprising the index in the format of audio and/or video streams (**Hendricks** C8:3-24, C16:10-24; EN: Examiner interprets demographic information targeting switching as "invalid information" causing a channel change to an alternate channel. Paragraph 18. below applies), and

**Hendricks** does not explicitly disclose:

to read the index from the alternate channel;

**Amano** teaches:

to read the index from the alternate channel (**Amano** C8:35-50; EN: Tunable primary channel and backup channels. Paragraph 18. below applies);

#### **Claim 14**

**Hendricks** teaches:

logic to read the information about the at least one audio and/or video stream from the channel (**Hendricks** C12:7-50; EN: Menus created) and, when the channel contains an indication of invalid information, to tune to an alternate channel comprising the information about the at least one audio and/or video stream (**Hendricks** C12:7-50; EN: Examiner interprets demographic information targeting switching as "invalid information" causing a channel change to an alternate channel. Paragraph 18. below applies),

**Hendricks** does not explicitly disclose:

to read the information about the at least one audio and/or video stream from the alternate channel.

**Amano** teaches:

to read the information about the at least one audio and/or video stream from the alternate channel (**Amano** C8:35-50; EN: Tunable primary channel and backup channels. Paragraph 18. below applies).

***Claim Rejections - 35 USC § 103***

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over

**Hendricks** in view of **Amano** in further view of Ellis et al. (U.S. Patent 2004/0117831 A1, referred to as **Ellis**).

**Claim 9**

**Hendricks** in view of **Amano** does not explicitly disclose:

logic to receive from a set top box a request for an audio and/or video stream, the request comprising an identifier of a title of the audio and/or video stream.

**Ellis** teaches:

logic to receive from a set top box a request for an audio and/or video stream, the request comprising an identifier of a title of the audio and/or video stream (**Ellis** ¶ 0101, 200 EN: Program guide includes an identifier of the title associated with the program along with other information associated with that program).

Rationale:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of **Hendricks** in view of **Amano** with the request for the stream and the identifier by title as taught by **Ellis** for the purpose of providing information from the menu being sent to the headend or server for the program request.

***Claim Rejections - 35 USC § 103***

11. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hendricks** in view of Terretta (U.S. PGPub 2001/0047275 A1, referred to as **Terretta**), Paragraph 18. below applies.

**Claim 15**

**Hendricks** teaches:

logic to locate in a content index a channel comprising audio and/or video title information (**Hendricks** C18:60-C19:7), and  
to tune to the channel comprising the audio and/or video title information (**Hendricks** C18:60-C19:7), and  
to locate the audio and/or video title information in the channel comprising the audio and/or video title information (**Hendricks** C18:60-C19:7),

**Hendricks** fails to teach:

to apply the audio and/or video title information and a service group identifier in a request communicated to an on-demand server system.

**Terretta** teaches:

to apply the audio and/or video title information and a service group identifier in a request communicated to an on-demand server system (**Terretta ¶¶ 0017, 0019**; EN: A user initially requests content from the private network and server requests the user to provide appropriate registration/membership information. Examiner interprets content request to include an identifier of the title of the content and the membership to be part of a group of subscribers. Paragraph 18. below applies).

Rationale:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of **Hendricks** with the service group identifier as taught by **Terretta** for the purpose of providing for facilitating registration and delivery of authenticated content across a computer network, and more particularly to a system/method for rapidly and reliably registering users and authenticating content requests by users in a scalable manner.

**Claim 16**

**Hendricks** teaches:

logic to locate in the content index an alternate channel comprising audio and/or video title information (**Hendricks C12:7-50**; EN: Menus created), and to tune to the alternate channel comprising the audio and/or video title information when the channel comprising the audio and/or video title information comprises an indication of invalid data (**Hendricks C12:7-50**; EN: Examiner interprets demographic information targeting switching as

"invalid information" causing a channel change to an alternate channel.

Examiner interprets searching to include title search. Paragraph 18. below applies).

### ***Response to Arguments***

12. The objection of claims 6 and 7 is withdrawn because the claims have been amended to refer to the correct independent claim.
13. In reference to Applicant's argument:

Claim 1 (and its dependent claims) describe a content on demand system including logic to alternatively deliver information about multiple audio and/or video streams on a first tunable channel and on a second tunable channel.

Hendricks does not disclose alternatively delivering information about multiple audio and/or video streams on a first tunable channel and on a second tunable channel. The cited figure (8a) and elements merely show a graphical interface program options. The cited passages (Abstract, col 15 ¶ 22-40, col 7 ¶ 1-14, col 12 ¶ 51 - col 13, ¶ 5 merely describe the communication and display of program menu options in conventional ways, not alternatively on different tunable channels. Hendricks does not describe the delivery mechanism of the claims. "Alternatively" as used in the claims has its common meaning, and meaning as used in the specification, which is 'alternating from one to the other'. Thus 'alternatively delivering information about multiple audio and/or video streams on a first tunable channel and on a second tunable channel' means delivering the stream information alternately, on a first tunable channel, then on a second, then eventually back to the first again, and so on. The Office Action does not appear, in the Applicant's view, to be applying this plain meaning and cites passages from Hendricks with no bearing or relation to the claim features.

Claim 10 and 12-14 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Hendricks in view of Curreri (U.S. Patent 6,817,027, referred to as Curreri). Neither Curreri nor Hamilton supplies the features for which Hendricks is relied upon (supplying index information on alternate tunable channels), and which are in fact not disclosed in Hendricks. See the remarks, supra. Nothing in either reference, nor set forth in the Office Action, would cause the missing features to arise as obvious to one skilled in the art. Rather, the Office Action relies on the assertion that the features are explicit in Hendricks, which in the Applicant's view is respectfully not the case.



Examiner's Response:

Applicant's arguments have been fully considered but they are not persuasive.

Examiner respectfully disagrees with the argued "alternating from one to the other" channel interpretation of the adverb "alternatively". Examiner interprets the adverb "alternatively" per the standard dictionary definition as listed below. Nowhere in the Applicant's specification is there an indication that the content delivery switches from one channel to the other, only that data is sent to a first or a second channel (Specification ¶ 0047). The delivery of the information is therefore interpreted as in parallel.

**Alternatively:** (adverb) **or, instead, otherwise, on the other hand, if not, then again**, as an alternative, by way of alternative, as another option Allow about 8 hours for the drive. Alternatively, you could fly. (Collins Thesaurus of the English Language – Complete and Unabridged 2nd Edition. 2002 © HarperCollins Publishers 1995, 2002).

**Alternatively:** *adv.*

Usage Note: Some traditionalists hold that alternative should be used only in situations where the number of choices involved is exactly two, because of the word's historical relation to Latin alter, "the other of two." Despite the word's longstanding use to mean "one of a number of things from which only one can be chosen" and the acceptance of this usage by many language critics, a substantial portion of the Usage Panel adheres to the traditional view, with only 49 percent accepting the sentence Of the three alternatives, the first is the least distasteful. · Alternative is also sometimes used to refer to a variant or substitute in cases where there is no element of choice involved, as in We will do our best to secure alternative employment for employees displaced by the closing of the factory. This sentence is unacceptable to 60 percent of the Usage Panel. · **Alternative should not be confused with alternate.** Correct usage requires The class will meet on alternate (not alternative) Tuesdays.

The American Heritage® Dictionary of the English Language, Fourth Edition copyright ©2000 by Houghton Mifflin Company. Updated in 2009. Published by Houghton Mifflin Company. All rights reserved. (<http://www.thefreedictionary.com/>)

**Alternatively:** *Adverb*

In the manner of alternatives, or that admits the choice of one out of two things.

Source: Webster's Revised Unabridged Dictionary. Copyright 1996, 1998 MICRA Inc. (<http://mydictionary.myresources.com/>)

Alternate: adj

1. occurring by turns alternate feelings of love and hate
2. every other or second one of a series he came to work on alternate days
3. being a second or further choice; alternative alternate director

Collins English Dictionary – Complete and Unabridged © HarperCollins Publishers 1991, 1994, 1998, 2000, 2003 (<http://www.thefreedictionary.com/>)

14. In reference to Applicant's argument:

Claims 15-16 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Hendricks in view of Hamilton (U.S. Patent 1,305,357, referred to as Hamilton).

The Office Action states that Hamilton teaches a service group identifier. It therefore concludes Applicant's claim feature, applying audio and/or video title information and a service group identifier in a request communicated to an on-demand server system, would somehow be obvious, merely because Hamilton discloses a service group identifier. Yet neither Hendricks nor Hamilton teach using a service group identifier in the claimed fashion. The Examiner merely concludes it would be obvious to do so. The Applicant respectfully asserts the rejection of claims 15-16 is therefore unreasonable for at least the reason that it is unsubstantiated by a consistent chain of reasoning from the disclosure of the two references to the claimed features.

Examiner's Response:

Applicant's arguments are persuasive. The rejection of claim 15 is withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of Hendricks et al. (U.S. Patent 5,600,364) and Terretta (U.S. PGPub 2001/0047275 A1).

***Examination Considerations***

15. The claims and only the claims form the metes and bounds of the invention.

"Office personnel are to give the claims their broadest reasonable interpretation in light

of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969) (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

16. Examiner's Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

17. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

18. Examiner's Opinion: ¶¶ 15.-17. apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

***Conclusion***

19. Claims 1-4, 6-10 and 12-16 are rejected.

***Correspondence Information***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to MARY ANNE KAY whose telephone number is (571)270-5677 FAX (571)270-6677, e-mail mary.kay@uspto.gov. The Examiner can normally be reached on Monday - Thursday and every other Friday, 8:00 AM - 5:00 PM, EST.

As detailed in MPEP 502.03, communications via Internet e-mail are at the discretion of the Applicant. Without a written authorization by Applicant recorded in the Applicant's file, the USPTO will not respond via e-mail to any Internet correspondence which contains information subject to the confidentiality requirement as set forth in 35 U.S.C. 122. A paper copy of such correspondence will be placed in the appropriate patent application. The following is an example authorization which may be used by the Applicant:

Notwithstanding the lack of security with Internet Communications, I hereby authorize the USPTO to communicate with me concerning any subject matter related to the instant application by e-mail. I understand that a copy of such communications related to formal submissions will be made of record in the applications file.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Joseph Hirl can be reached on (571)272-3685. Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,  
Washington, D. C. 20231;

Hand delivered to:

Receptionist,  
Customer Service Window,  
Randolph Building,  
401 Dulany Street,  
Alexandria, Virginia 22313,  
(located on the first floor of the south side of the Randolph Building);

or faxed to:

(571)273-8300 (for formal communications intended for entry).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/579,214

Page 21

Art Unit: 2426

Mary Anne Kay  
Examiner

/JOSEPH P. HIRL/  
Supervisory Patent Examiner, Art Unit 2426  
October 11, 2011